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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/804,039

03/13/2001

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8847

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EXAMINER

OYEBISI, OJO O

ART UNIT

PAPER NUMBER

3692

MAIL DATE

DELIVERY MODE

05/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/804,039

Applicant(s)

YOSHIDA, HIDEFUMI

Examiner

OJO O. OYEBISI

Art Unit

3692

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, and 5-8 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/02/07 has been entered. In the RCE filed on 03/02/07, the following have occurred: claims 1, 7 and 8 have been amended, no claims have been cancelled, and claims 1-3, and 5-8 remain pending in this application.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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2. Claims 1-3, and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwartz et al (Shwartz hereinafter, US PAT pub. #: 2001/0044787) in view of Miller (Michael Miller, The complete Idiot's Guide to Ebay Online Auctions, copyright July 1999).

Re claims 1-3, and 5-8. Shwartz discloses a transaction supporting apparatus for use by an intermediary agent in supporting payment of a transaction made between a buyer and a seller, said apparatus comprising: issuing means for issuing a membership number to the buyer upon a first purchase of any product using the intermediary agent (see pg.5 paras 0097); sending means (i.e., (the internet) "In some preferred embodiments, the secure private agent executes the payment instructions of the consumer, and arranges to pay the merchant against a private credit balance between the trusted third party and the consumer, a commercial credit card authorization, or other conventional payment mechanism which can be effected via the internet," see pg 2 paras 0023, also see pg 5 paras 0081) **for sending the membership number of the buyer to a delivery service agent who delivers the product to the buyer; receiving means for receiving credit card information about a credit card account of the buyer (see pg 5 paras 0095, also see pg.9 paras 0142) via the delivery service agent upon delivery of the product to the buyer, only once the first time the buyer uses the intermediary agent for payment for a purchase; registering means for registering credit card account information of the buyer received via the delivery service agent, together with the membership number of the buyer**

(see pg 5 paras 0083-0086); payment information notifying means for notifying the buyer of payment information that requests the buyer to transfer money to a bank account of the seller (see pg 11, paras 0196). Shwartz does not explicitly disclose notifying the buyer of payment information that requests the buyer to transfer money to a bank account of the seller by other means than the registered credit card account of the buyer before a specified deadline expires in response to which the buyer may transfer money to the bank account of the seller by means other than the registered credit account of the buyer; payment confirming means for confirming whether the requested money transfer of the buyer has been made by the other means than the registered credit card account to the seller's bank account by the specified deadline, and charging means for charging the buyer by the intermediary agent for the transaction via the credit card account identified from the credit card information registered together with the membership number of the buyer, only if said payment confirming means finds that the requested money transfer to the seller's bank account by the other means than the registered credit card account has not been made by the deadline. However, Michael explicitly compensates for the incomplete teachings of Shwartz supra by teaching all the limitations that Shwartz fails to teach supra (i.e., escrow service, as side a side benefit, escrow services also allow you to pay by credit card – even if you're buying from a non-credit card enabled individual... see pg 271, also see pg 272 " Here's how a typical escrow transaction works."). Thus it would have been obvious to one of ordinary skill in

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the art to combine the teachings of Shwartz and that of Michael to provide security to the buyer's credit information and to allow buyers to pay by credit card – even if they're buying from a non-credit card enabled individual.

Response to Arguments

3. Applicant's arguments with respect to claims 1-3, and 5-8 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OJO O. OYEBISI whose telephone number is (571) 272-8298. The examiner can normally be reached on 8:30A.M-5:30P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RICHARD E. CHILCOT can be reached on (571)272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


FRANTZY POINVIL
PRIMARY EXAMINER
Au 3692